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Judge rules out plea of insanity for Tafoya

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Fort Collins District Judge Robert Miller ruled Monday that Eugene Tafoya can't plead insanity to charges filed in the attempted killing of a Libyan dissident in Fort Collins last October.

Miller based his ruling on findings of a court-appointed psychiatrist who testified at a hearing Monday that Tafoya is sane. Tafoya's trial is scheduled for Nov. 2.

However, under cross-examination by a defense attorney, psychiatrist Kenneth Ash said he couldn't rule out that Tafoya suffered from "toxic psychosis" at the time he allegedly shot Faisal Zagallai.

Ash said he hadn't been told before he made his report to Miller that Tafoya may have been drinking heavily before he met Zagallai. Toxic psychosis, which can prevent a person from knowing right from wrong, often is caused by heavy drinking, Ash said.

Tafoya was taking a mood-altering drug at the time of his interviews with Ash, but the psychiatrist said he didn't think that would have masked an underlying psychosis.

Tafoya, a 47-year former Green Beret, appeared tired and sullen during the court appearance. His head bowed, he heard Ash describe his present mental state as reactive depression brought on by his arrest.

Ash said Tafoya deeply misses his wife and son and has had trouble adjusting to prison life.

Tafoya has insisted he shot Zagallai in self-defense. He said he had been told by his employer — who he said he thought was the CIA — to contact Zagallai and warn him against making inflammatory broadcasts to the Middle East. Ash testified that Tafoya told him that Zagallai drew a gun and that Tafoya shot in self-defense.

At an earlier hearing, Zagallai admitted he had a gun nearby during his meeting with Tafoya, but denied drawing it.

An eye-witness appears to support key parts of Tafoya's version of events. That witness says in court documents that Tafoya was trying to leave Zagallai's apartment and Zagallai was trying to force him back inside. That's when Tafoya shot, the witness said.

Zagallai, shot twice in the head with .22 caliber slugs; lost vision in one eye. Zagallai has testified Tafoya came to his apartment posing as a job interviewer, began attacking Zagallai with his hands after about 10 minutes and then pulled a gun and shot.

Under Colorado law, a defendant must have permission of a judge to plead insanity if he didn't do so at the time of his arraignment. The law says a defendant must have a good cause to change his plea to insanity and Miller ruled the defense hadn't proven the good cause.

Defense attorney Scott Robinson insisted that three recently received reports detailing occasions when Tafoya drew a gun suggested the possibility of an insanity defense.

Miller also reiterated last week's order that requires Tafoya to allow prosecutors to record his voice. Tafoya has refused to do so.

Prosecutors want to compare Tafoya's voice with one found on a tape recording discovered during a search of his Ford Bronco. Prosecutors believe that on the tape, Tafoya admits to bombing a car owned by man who once had business dealings with Tafoya's former employer, Edwin P. Wilson.

Wilson, a former CIA agent, has been indicted for running arms to Libya and is suspected of training terrorists in that country.